

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

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No. 19-1356 T

(Judge Kathryn C. Davis)

LONNIE H. COOPER,

Plaintiff

v.

THE UNITED STATES,

Defendant

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**UNOPPOSED MOTION FOR ENLARGEMENT OF TIME**

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Pursuant to RCFC 6.1, the United States moves for an enlargement of time of forty-nine days from March 25, 2022, to and including May 13, 2022, within which to file a motion to dismiss in the above-captioned case. This is the first enlargement of time requested for this purpose.

In support of this motion, defendant states that the Federal Circuit's recent decision in *Brown v. United States*, 22 F.4th 1008, 1013 (Fed. Cir. 2022) will impact the dispositive motion to be filed by the government in this action. In *Brown*, the Federal Circuit concluded "the 'duly filed' requirement in § 7422(a) is more akin to a claims-processing rule than a jurisdictional requirement." (*Id.* at 1012.) The Federal Circuit affirmed the lower court's dismissal in *Brown* but did so under RCFC 12(b)(6) for failure to state a claim upon which relief can be granted rather than RCFC 12(b)(1) for lack of subject matter jurisdiction. (*Id.*)

Counsel for the parties agree that it would be beneficial to have additional time to confer regarding the parties' views on the decision in *Brown* and that decision's significance in light of the facts in this case. This enlargement will allow additional time for the parties to confer before defendant files its dispositive motion in this action. This enlargement is also requested to allow defendant's counsel time to complete preparation of defendant's dispositive motion, and for the motion to be reviewed thereafter before filing with the Court. Counsel for plaintiff has authorized us to state that plaintiff does not object to the allowance of this motion.

WHEREFORE, defendant requests that its motion be granted.

Respectfully submitted,

s/Jennifer Dover Spriggs

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March 17, 2022